

Judge: Timothy W. Dore
Chapter: 13
Hearing Date: September 06, 2017
Hearing Time: 9:30 am
Hearing Location: U.S. Bankruptcy Court
700 Stewart St #8106
Seattle, WA 98101
Response Date: August 30, 2017

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

In Re:

ANTONIO CRUZ-ALVARADO AND
ERNESTINA CRUZ,

Debtors.

IN CHAPTER 13 PROCEEDING
NO. 17-12457

NOTICE OF TRUSTEE'S MOTION TO DISMISS
CASE AND HEARING

PLEASE TAKE NOTICE that the Chapter 13 Trustee's Motion to Dismiss Case IS SET FOR HEARING as follows:

Judge: Timothy W. Dore
Place: U.S. Bankruptcy Court
700 Stewart St #8106
Seattle, WA 98101

Date: September 06, 2017
Time: 9:30 am

IF YOU OPPOSE the motion, you must file your written response with the Court Clerk NOT LATER THAN THE RESPONSE DATE, which is August 30, 2017.

IF NO RESPONSE IS TIMELY FILED, the Court may, in its discretion, GRANT THE MOTION PRIOR TO THE HEARING WITHOUT FURTHER NOTICE, and strike the hearing.

Date: July 31, 2017

/s/K. Michael Fitzgerald
K. Michael Fitzgerald, WSBA# 8115
Chapter 13 Trustee

NOTICE OF TRUSTEE'S MOTION TO DISMISS CASE
AND HEARING

Chapter 13 Bankruptcy Trustee
600 University St. #2200
Seattle, WA 98101
(206) 624-5124

Judge: Timothy W. Dore
Chapter: 13
Hearing Date: September 06, 2017
Hearing Time: 9:30 am
Hearing Location: U.S. Bankruptcy Court
700 Stewart St #8106
Seattle, WA 98101
Response Date: August 30, 2017

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

In Re:

ANTONIO CRUZ-ALVARADO AND
ERNESTINA CRUZ,

Debtors.

IN CHAPTER 13 PROCEEDING
NO. 17-12457

TRUSTEE'S MOTION TO DISMISS CASE

The Trustee moves to dismiss this case pursuant to 11 U.S.C. § 1307(c):

The debtors filed a plan on June 13, 2017 (ECF No. 13).

The debtors have failed to make plan payments and are delinquent \$3,054.48.

The debtors' case was filed on May 30, 2017 (ECF No. 1). The debtors are delinquent on plan payments, but a wage deduction is now in effect. Provided that the debtors do not become any further delinquent on their plan payments, this may not be an issue. The debtors need to amend the voluntary petition to disclose their prior Chapter 7 bankruptcy case filing, Case No. 09-20355-KAO. Based on the pre-petition mortgage delinquency figure in the claim filed by HSBC Bank USA, National Association (ECF Claim No. 1), the debtors need to amend the plan to increase the periodic payment in Section IV.C.3. for Everbank to approximately \$595.00/month. The debtors need to amend the plan to provide for the federal judgment interest rate of 1.16% in Section IX. The debtors disclosed a Mercedes on Line 3.2 of Schedule A/B (ECF Nos. 1 and 19). The debtors failed to disclose a year/model for this vehicle, and disclosed a value of \$0.00 for the vehicle. Based on the debtors' testimony, this is a 2005 Mercedes, and Mr. Cruz-Alvarado is the only individual on title to this vehicle. The debtors need to amend Schedule A/B to disclose the year/model for this vehicle, and also need to provide for an accurate valuation for the debtors' interest in this vehicle, as it appears that the \$0.00 value for the vehicle is inaccurate. The Trustee reserves the right to assert

TRUSTEE'S MOTION TO DISMISS CASE - 1

Chapter 13 Bankruptcy Trustee
600 University St. #2200
Seattle, WA 98101
(206) 624-5124

additional bases for this motion. If the debtors fail to address the issues set forth in both the Trustee's Objection and

1 Motion to Dismiss, the case should be dismissed.

2
3 THE TRUSTEE REQUESTS that the Court dismiss this case.

4 Dated: July 31, 2017

5 /s/ K. Michael Fitzgerald
6 K. Michael Fitzgerald, WSBA #8115
7 Chapter 13 Trustee
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10 **IN THE UNITED STATES BANKRUPTCY COURT**
11 **FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

12 In Re:

13 ANTONIO CRUZ-ALVARADO AND
14 ERNESTINA CRUZ,

15 Debtors.

IN CHAPTER 13 PROCEEDING
NO. 17-12457

Proposed
ORDER DISMISSING CASE

16 THIS MATTER having come before the Court on the Chapter 13 Trustee's Motion to Dismiss Case, and the
17 Court having reviewed and considered the motion, records and files in this case, it is

18 ORDERED that this case is dismissed.

19 // /End of Order/ //

20
21
22 Presented by:

/s/K. Michael Fitzgerald

23 K. Michael Fitzgerald, WSBA# 8115

24 Chapter 13 Bankruptcy Trustee

25 600 University St. #2200

26 Seattle, WA 98101

(206) 624-5124

27
28
CM160
ams
ORDER DISMISSING CASE

Chapter 13 Bankruptcy Trustee
600 University St. #2200
Seattle, WA 98101
(206) 624-5124